

SENATE BILL 483 (LRB -3688)

An Act to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30 (3) (es), 71.47 (5e) and 71.49 (1) (es) of the statutes; relating to: an income and franchise tax credit for sales and use taxes paid on the purchase of Internet equipment used in the broadband market. (FE)

2005

- 01-12. S. Introduced by Senators **Kanavas, Jauch, Leibham, Harsdorf, Stepp, Schultz, Kedzie and Olsen**; cosponsored by Representatives **Montgomery, Davis, Gard, Lamb, Rhoades, Freese, Fields, Gunderson, Vos, Albers, Nischke and Musser**.
- 12-22. S. Read first time and referred to committee on Job Creation, Economic Development and Consumer Affairs 510

2006

- 01-12. S. Public hearing held.
- 01-12. S. Senate substitute amendment 1 offered by Senator Kanavas (**LRB s0414**) 523
- 01-13. S. Fiscal estimate received.
- 01-13. S. Fiscal estimate received.
- 02-09. S. Executive action taken.
- 02-14. S. Report adoption of Senate Substitute Amendment 1 recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 3, Noes 1 595
- 02-14. S. Report passage recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 3, Noes 1 595
- 02-14. S. Available for scheduling.
- 02-27. S. Senate substitute amendment 2 offered by Senator Kanavas (**LRB s0588**) 636
- 03-27. S. Withdrawn from committee on Senate Organization and rereferred to joint committee on Finance, pursuant to Senate Rule 46 (2)(c) 759
- 03-30. S. Executive action taken.
- 03-31. S. Report introduction of Senate Substitute Amendment 3 recommended by joint committee on Finance, Ayes 16, Noes 0 (**LRB s0675**) 763
- 03-31. S. Report adoption of Senate Substitute Amendment 3 recommended by joint committee on Finance, Ayes 13, Noes 3 763
- 03-31. S. Report passage as amended recommended by joint committee on Finance, Ayes 13, Noes 3 763
- 03-31. S. Available for scheduling.
- 04-11. S. Senator Zien added as a coauthor 769
- 04-24. S. Placed on calendar 4-25-2006 by committee on Senate Organization.
- 04-25. S. Read a second time.
- 04-25. S. Senate amendment 1 to Senate substitute amendment 3 offered by Senator Brown (**LRB a2962**).
- 04-25. S. Point of order that Senate amendment 1 to Senate substitute amendment 3 not germane taken under advisement.
- 04-25. S. Point of order that Senate amendment 1 to Senate Substitute amendment 3 was not germane not well taken.
- 04-25. S. Decision of the Chair stands as the judgement of the Senate, Ayes 22, Noes 11.
- 04-25. S. Senate amendment 1 to Senate substitute amendment 3 laid on table, Ayes 19, Noes 14.
- 04-25. S. Senate substitute amendment 3 **adopted**.
- 04-25. S. Ordered to a third reading.
- 04-25. S. Rules suspended.
- 04-25. S. Read a third time and **passed**, Ayes 26, Noes 7.
- 04-25. S. Ordered immediately messaged.
- 04-25. A. Received from Senate 1045
- 04-25. A. Read first time and referred to calendar 1046
- 04-25. A. Read a second time 1047
- 04-25. A. Ordered to a third reading 1047
- 04-25. A. Rules suspended 1047
- 04-25. A. Read a third time and **concurred in**, Ayes 80, Noes 13 1048
- 04-25. A. Ordered immediately messaged 1048
- 04-26. S. Received from Assembly concurred in.

2005 ENROLLED BILL

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ADOPTED DOCUMENTS:

☐ Orig

☐ Engr

S SubAmdt 3

05 S 0675/ 1

Amendments to above (if none, write "NONE"):

None

Corrections - show date (if none, write "NONE"):

None

Topic

Rel

4-27-06

Date

JR Miller

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**SENATE SUBSTITUTE AMENDMENT 3,
TO 2005 SENATE BILL 483**

March 31, 2006 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); ***to repeal and recreate*** 71.08 (1) (intro.) and 71.08 (1)
3 (intro.); and ***to create*** 71.07 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30 (3) (es), 71.47
4 (5e), 71.49 (1) (es), 77.51 (6m) and 77.54 (48) of the statutes; **relating to:** an
5 income and franchise tax credit and a sales and use tax exemption for Internet
6 equipment used in the broadband market.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
8 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d),~~ and (5e)
10 and not passed through by a partnership, limited liability company, or tax-option
11 corporation that has added that amount to the partnership's, company's, or
12 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

1 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

2 **71.07 (5e) INTERNET EQUIPMENT CREDIT.** (a) *Definitions.* In this subsection:

3 1. “Claimant” means a person who files a claim under this subsection.

4 2. “Internet equipment used in the broadband market” means equipment that
5 is capable of transmitting data packets or Internet signals at speeds of at least 200
6 kilobits per second in either direction.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection and
8 subject to 2005 Wisconsin Act ... (this act), section 17, beginning in the first taxable
9 year following the taxable year in which the claimant claims an exemption under s.
10 77.54 (48), a claimant may claim as a credit against the taxes imposed under ss. 71.02
11 and 71.08, up to the amount of those taxes, in each taxable year for 2 years, the
12 amount certified by the department of commerce that the claimant claimed as an
13 exemption under s. 77.54 (48).

14 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
15 claimant satisfies the requirements under s. 77.54 (48).

16 2. Partnerships, limited liability companies, and tax-option corporations may
17 not claim the credit under this subsection, but the eligibility for, and the amount of,
18 the credit are based on their use of sales and use tax exemptions certified by the
19 department of commerce as described under par. (b). A partnership, limited liability
20 company, or tax-option corporation shall compute the amount of credit that each of
21 its partners, members, or shareholders may claim and shall provide that information
22 to each of them. Partners, members of limited liability companies, and shareholders
23 of tax-option corporations may claim the credit in proportion to their ownership
24 interests.

1 3. The total amount of the credits and exemptions that may be claimed by all
2 claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and 77.54 (48) is
3 \$7,500,000, as determined by the department of commerce.

4 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
5 s. 71.28 (4) applies to the credit under this subsection.

6 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Acts
7 25 and 177, is repealed and recreated to read:

8 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
9 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
10 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
11 (3t), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
12 (1dx), (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
13 (1dx), (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other
14 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
15 that natural person, married couple filing jointly, trust or estate, instead of the tax
16 under s. 71.02, an alternative minimum tax computed as follows:

17 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Acts
18 25, 177 and (Assembly Bill 208), is repealed and recreated to read:

19 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
20 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
21 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3c), (3e), (3m),
22 (3n), (3s), (3t), (3w), (5b), (5d), (5e), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj),
23 (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de), (1di),
24 (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII and IX
25 and payments to other states under s. 71.07 (7), is less than the tax under this

1 section, there is imposed on that natural person, married couple filing jointly, trust
2 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed
3 as follows:

4 **SECTION 5.** 71.10 (4) (gy) of the statutes is created to read:

5 71.10 (4) (gy) Internet equipment credit under s. 71.07 (5e).

6 **SECTION 6.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
7 amended to read:

8 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
9 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed
10 through to partners shall be added to the partnership's income.

11 **SECTION 7.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
12 is amended to read:

13 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
14 the gross income as computed under the Internal Revenue Code as modified under
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
16 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
17 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
18 under this paragraph at the time that the taxpayer first claimed the credit plus the
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
20 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a
21 partnership, limited liability company, or tax-option corporation that has added that
22 amount to the partnership's, limited liability company's, or tax-option corporation's
23 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
24 other disposition of assets the gain from which would be wholly exempt income, as
25 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and

1 minus deductions, as computed under the Internal Revenue Code as modified under
2 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
3 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
4 otherwise disposed of in a taxable transaction during the taxable year, except as
5 provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 8.** 71.28 (5e) of the statutes is created to read:

7 **71.28 (5e) INTERNET EQUIPMENT CREDIT.** (a) *Definitions.* In this subsection:

8 1. “Claimant” means a person who files a claim under this subsection.

9 2. “Internet equipment used in the broadband market” means equipment that
10 is capable of transmitting data packets or Internet signals at speeds of at least 200
11 kilobits per second in either direction.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection and
13 subject to 2005 Wisconsin Act (this act), section 17, beginning in the first taxable
14 year following the taxable year in which the claimant claims an exemption under s.
15 77.54 (48), a claimant may claim as a credit against the taxes imposed under s. 71.23,
16 up to the amount of those taxes, in each taxable year for 2 years, the amount certified
17 by the department of commerce that the claimant claimed as an exemption under s.
18 77.54 (48).

19 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
20 claimant satisfies the requirements under s. 77.54 (48).

21 2. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on their use of sales and use tax exemptions certified by the
24 department of commerce as described under par. (b). A partnership, limited liability
25 company, or tax-option corporation shall compute the amount of credit that each of

1 its partners, members, or shareholders may claim and shall provide that information
2 to each of them. Partners, members of limited liability companies, and shareholders
3 of tax-option corporations may claim the credit in proportion to their ownership
4 interests.

5 3. The total amount of the credits and exemptions that may be claimed by all
6 claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and 77.54 (48) is
7 \$7,500,000, as determined by the department of commerce.

8 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
9 sub. (4), applies to the credit under this subsection.

10 **SECTION 9.** 71.30 (3) (es) of the statutes is created to read:

11 71.30 (3) (es) Internet equipment credit under s. 71.28 (5e).

12 **SECTION 10.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,
13 is amended to read:

14 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
16 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

17 **SECTION 11.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
18 74, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
20 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed
21 through by a partnership, limited liability company, or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's, or
23 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
24 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

25 **SECTION 12.** 71.47 (5e) of the statutes is created to read:

1 71.47 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

2 1. “Claimant” means a person who files a claim under this subsection.

3 2. “Internet equipment used in the broadband market” means equipment that
4 is capable of transmitting data packets or Internet signals at speeds of at least 200
5 kilobits per second in either direction.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection and
7 subject to 2005 Wisconsin Act (this act), section 17, beginning in the first taxable
8 year following the taxable year in which the claimant claims an exemption under s.
9 77.54 (48), a claimant may claim as a credit against the taxes imposed under s. 71.43,
10 up to the amount of those taxes, in each taxable year for 2 years, the amount certified
11 by the department of commerce that the claimant claimed as an exemption under s.
12 77.54 (48).

13 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
14 claimant satisfies the requirements under s. 77.54 (48).

15 2. Partnerships, limited liability companies, and tax-option corporations may
16 not claim the credit under this subsection, but the eligibility for, and the amount of,
17 the credit are based on their use of sales and use tax exemptions certified by the
18 department of commerce as described under par. (b). A partnership, limited liability
19 company, or tax-option corporation shall compute the amount of credit that each of
20 its partners, members, or shareholders may claim and shall provide that information
21 to each of them. Partners, members of limited liability companies, and shareholders
22 of tax-option corporations may claim the credit in proportion to their ownership
23 interests.

1 3. The total amount of the credits and exemptions that may be claimed by all
2 claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and 77.54 (48) is
3 \$7,500,000, as determined by the department of commerce.

4 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
5 s. 71.28 (4), applies to the credit under this subsection.

6 **SECTION 13.** 71.49 (1) (es) of the statutes is created to read:

7 71.49 (1) (es) Internet equipment credit under s. 71.47 (5e).

8 **SECTION 14.** 77.51 (6m) of the statutes is created to read:

9 77.51 (6m) For purposes of s. 77.54 (48), “Internet equipment used in the
10 broadband market” means equipment that is capable of transmitting data packets
11 or Internet signals at speeds of at least 200 kilobits per second in either direction.

12 **SECTION 15.** 77.54 (48) of the statutes is created to read:

13 77.54 (48) (a) Subject to 2005 Wisconsin Act (this act), section 17, the gross
14 receipts from the sale of and the storage, use, or other consumption of Internet
15 equipment used in the broadband market, if the purchaser certifies to the
16 department of commerce, in the manner prescribed by the department of commerce,
17 that the purchaser will, within 24 months after the effective date of this paragraph
18 [revisor inserts date], make an investment that is reasonably calculated to
19 increase broadband Internet availability in this state.

20 (b) Every person who is required to make the investment under par. (a) shall,
21 within 60 days after the end of the year in which the investment is made, file a report
22 with the department of commerce that provides a detailed description of the
23 investment, including the amount invested. The department of commerce shall
24 provide copies of the report to the department of administration, the department of
25 revenue, and the public service commission.

1 **SECTION 16.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
2 amended to read:

3 77.92 (4) “Net business income,” with respect to a partnership, means taxable
4 income as calculated under section 703 of the Internal Revenue Code; plus the items
5 of income and gain under section 702 of the Internal Revenue Code, including taxable
6 state and municipal bond interest and excluding nontaxable interest income or
7 dividend income from federal government obligations; minus the items of loss and
8 deduction under section 702 of the Internal Revenue Code, except items that are not
9 deductible under s. 71.21; plus guaranteed payments to partners under section 707
10 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), (5e), and (5g);
12 and plus or minus, as appropriate, transitional adjustments, depreciation
13 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
14 excluding income, gain, loss, and deductions from farming. “Net business income,”
15 with respect to a natural person, estate, or trust, means profit from a trade or
16 business for federal income tax purposes and includes net income derived as an
17 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

18 **SECTION 17. Nonstatutory provisions.**

19 (1) INTERNET EQUIPMENT CREDIT AND EXEMPTION PROGRAM.

20 (a) Not later than 30 days after the effective date of this subsection, the
21 department of commerce shall implement a program for certifying businesses as
22 eligible for tax credits and exemptions under sections 71.07 (5e), 71.28 (5e), 71.47
23 (5e), and 77.54 (48) of the statutes.

24 (b) If the department of commerce certifies a business as eligible under
25 paragraph (a), the department shall determine the maximum amount of tax credits

1 and exemptions that the business may claim, subject to paragraph (c). The amount
2 of the tax credits allocated to each business for each year in which the business may
3 claim credits shall equal the amount of the exemptions allocated to the business. The
4 department of commerce may not allocate tax credits and exemptions to a business
5 unless the allocation of tax credits and exemptions to the business is likely to
6 increase the availability of broadband Internet service in areas of this state that are
7 not served by a broadband Internet service provider or are served by not more than
8 one broadband Internet service provider, as determined by the department. The
9 total amount of exemptions from the taxes imposed under subchapter III of chapter
10 77 of the statutes and tax credits allocated to all eligible businesses may not exceed
11 \$7,500,000. The department of commerce shall complete the certifications and
12 determinations under this paragraph and paragraph (a) not later than the first day
13 of the 7th month after the effective date of this subsection.

14 (c) Not later than 10 days after the department of commerce completes the
15 certifications and determinations under paragraphs (a) and (b), the department of
16 commerce shall submit to the joint committee on finance a report identifying the
17 businesses certified under this subsection and the maximum amount of tax credits
18 and exemptions each business may claim. If the cochairpersons of the committee do
19 not notify the department of commerce within 14 working days after the department
20 of commerce submits the report that the committee has scheduled a meeting to
21 review the department of commerce's certifications and determinations, the
22 department of commerce shall notify the department of revenue of the department
23 of commerce's certifications and determination. If, within 14 working days after the
24 department of commerce submits the report, the cochairpersons of the committee
25 notify the department of commerce that the committee has scheduled a meeting to

1 review the proposal, the department of commerce may not notify the department of
2 revenue of the department of commerce's certifications and determinations unless
3 one of the following is true:

4 1. The committee approves the department of commerce's certifications and
5 determinations.

6 2. The committee does not hold a meeting to review the proposal within 30 days
7 after the cochairpersons notify the department of commerce that a meeting has been
8 scheduled.

9 (d) Notwithstanding section 227.24 of the statutes, the department of
10 commerce may promulgate emergency rules necessary to administer this subsection.
11 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
12 promulgated under this subsection remain in effect until the department of
13 commerce notifies the department of revenue of the department of commerce's
14 certifications and determinations, or the first day of the 13th month after the
15 effective date of this subsection, whichever is sooner. Notwithstanding section
16 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to
17 provide evidence that promulgating a rule under this subsection as an emergency
18 rule is necessary for the preservation of the public peace, health, safety, or welfare
19 and is not required to provide a finding of emergency for a rule promulgated under
20 this subsection.

21 (2) RECONCILIATION PROVISION. If the amendment of section 71.08 (1) (intro.) of
22 the statutes by 2005 Assembly Bill 208 takes effect before the effective date of this
23 subsection, the repeal and recreation of section 71.08 (1) (intro.) of the statutes by
24 SECTION 3 of this act is void. If the amendment of section 71.08 (1) (intro.) of the
25 statutes by 2005 Assembly Bill 208 does not take effect before the effective date of

1 this subsection, or if 2005 Assembly Bill 208 is not enacted into law, the repeal and
2 recreation of section 71.08 (1) (intro.) of the statutes by SECTION 4 of this act is void.

3 **SECTION 18. Effective dates.** This act takes effect on December 1, 2006,
4 except as follows:

5 (1) The treatment of section 77.54 (48) of the statutes takes effect on July 1,
6 2007.

7 (END)